IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3029 of 1995

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JAYDEEPSINGH N RANA AND OTHERS
Versus
STATE OFD GUJARAT AND OTHERS

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Appearance :
MR HJ NANAVATI for the Petitioners
Mr Makwana, AGP for Respondents Nos.1 - 2
RULE NOT RECD BACK for Respondent(s) : 3 - 4.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 04/12/2006

ORAL JUDGMENT

By filing this petition the petitioners have prayed that respondents may be directed to treat the petitioners as permanent employees and to

give the petitioners all the service benefits. The petitioners were appointed as an ad-hoc lecturers. The grievance of the petitioners is that they have been given tenure orders from time to time treating them as ad-hoc lecturers and the orders are given only during academic terms. It is the say of the petitioners that they are eligible to be appointed as lecturers. As per the appointment orders, the appointment of the petitioners were temporary till GPSC selected candidate is available. Since the petitioners were apprehending termination, they have filed this petition with a prayer that their services should be regularised.

Mr Makwana, learned AGP submitted that in view of the judgement of Division Bench of this Court in **K.D.Vohra V. Kamleshbhai Gobarbhai Patel** reported in **2003 (2) GLR 1342,** the petitioners cannot be continued on said post as their appointment was on ad-hoc basis. He further submitted that in view of the directions given by this Honourable Court in Special Civil Application No.5415/1997, petitioners' services would be continued till GPSC selected candidate is available or any other employee is transferred from other department to the department where petitioner is serving. He further submitted that even if any occasion arises for terminating the services of the petitioners, principle of 'last come first go' will be followed.

In response to the petition, affidavit-in-reply has been filed by Deputy Director, Commissioner of Higher Education Office, Gandhinagar. Mr Makwana, learned AGP pointed out htat petitioners are serving in different colleges as no GPSC selected candidate is appointed vice them on the said posts.

I have heard both the learned advocates and I have also gone through the decision of learned Single Judge delivered in Special Civil

No.7604/1997 and allied matters dated 6-2-2006. I have also gone through the judgement of learned Single Judge delivered in in Special Civil Application No.5415/1997.

Considering the facts and circumstances of the case and considering aforesaid judgements, prayer of the petitioners to the effect that their services may be regularized cannot be granted, however, this petition is disposed of with following directions.

i. Services of the petitioners may be continued till they are required to be replaced either by GPSC selected candidate or by any other suitable candidate by way of transfer.
ii. In case the services of the petitioners are required to be terminated, then principle of 'last come first go' should be followed.
iii. It is pointed out by Mr.Nanavati, learned advocate for the petitioner that some similarly situated lecturers have already been sent to private granted colleges. If that be so and if Government has evolved any policy to send such lecturers in private granted college, case of the petitioners also may be considered, however, it is for the Government to consider whether petitioners can be sent in a private granted college as a lecturer and this question is left to the discretion of the Government.
iv. As per the judgement of the Division Bench, the Government shall consider to form a separate cadre and, thereafter, the Government may also consider whether the petitioners can be accommodated in such cadre in light of the directions given by Division Bench of this Court.

In view of aforesaid directions, this petition is partly allowed. Rule is made absolute accordingly with no order as to costs.

(P.B.Majmudar, J.)

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